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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,200	11/16/2001	Samuel Cavallaro	2000P09062US01	3398

7590 12/14/2004  
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EXAMINER
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VO, LILIAN

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/991,200

Applicant(s)

CAVALLARO ET AL.

Examiner

Lilian Vo

Art Unit

2127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5, 8 and 9</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1 – 7 are pending.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3 – 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. The following terms lack of antecedent basis:

- a. "the plurality of available non-real-time application programs", in **claim 3**.
- b. "the stored plurality of non-real-time application programs", in **claims 3 and 5**.
- c. "the plurality of non-real-time application programs", in **claim 5**.

#### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

Art Unit: 2127

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 – 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Cavallaro et al. (US 6,793,625, hereinafter Cavallaro)

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

7. Regarding **claim 1**, Cavallaro discloses a critical care workstation, comprising;  
a display device (fig. 1: 112);  
a processor (fig. 1: 102),  
coupled to the display device, executing (fig. 1 and 2):

a general purpose operating system, controlling execution of a selected non-real-time application program for displaying images representing non-real-time data on the display device (fig. 2, col. 2, lines 57 - 61); and

a real-time kernel, controlling execution of a process for displaying images representing real-time data on the display device simultaneously with the display of the non-real-time data (col. 2, lines 61 – 67, fig. 2); and

circuitry, responsive to user input, for selecting the non-real-time display program from among a plurality of available non-real-time display programs (col. 3, line 64 – col. 4, line 17, figs. 1 and 2).

8. Regarding **claim 2**, Cavallaro discloses the workstation of claim 1 wherein the general purpose operating system executes simultaneous with and independent from the real-time kernel (abstract, col. 2, lines 53 - 67).

9. Regarding **claim 3**, Cavallaro discloses the workstation of claim 1 further comprising a storage device, coupled to the processor (fig. 1), wherein the plurality of available non-real-time application programs are stored on the storage device and the general purpose operating system selects one of the stored plurality of non-real-time application programs in response to the user input (col. 4, lines 1 – 7, 17 – 52, col. 5, lines 30 – 62, col. 2, lines 57 - 61).

10. Regarding **claim 4**, Cavallaro discloses the workstation of claim 3 wherein the storage device stores code and data representing the non-real-time application program and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (col. 3, line 58 – col. 4, line 8).

11. Regarding **claim 5**, Cavallaro discloses the workstation of claim 1 further comprising a connection to a network comprising a server capable of storing the plurality of non-real-time application programs and the general purpose operating system selects one of the stored plurality

of non-real-time application programs in response to the user input (fig. 1, col. 4, lines 1 – 7, 17 – 52, col. 5, lines 30 – 62, col. 2, lines 57 - 61).

12. Regarding **claim 6**, Cavallaro discloses the workstation of claim 5 wherein the server stores code and data representing the non-real-time application program and the processor retrieves the stored code and data representing the selected non-real-time application and controls the execution of the retrieved code and data (col. 3, line 58 – col. 4, line 8).

13. Regarding **claim 7**, Cavallaro discloses the workstation of claim 1, wherein the real-time data is physiological data (col. 7, lines 36 – 52).

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Merwin (US 3,753,240), Dimmick (US 3,622,230) and Moriya (JP411053249) disclose a system that simultaneously displays real-time information and non-real-time information.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

Art Unit: 2127

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo  
Examiner  
Art Unit 2127

lv  
December 10, 2004



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